

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF PENNSYLVANIA

In re GENERIC DIGOXIN AND ) MDL No. 2724  
DOXYCYCLINE ANTITRUST LITIGATION ) (2:16-md-02724-CMR)

\_\_\_\_\_) )  
) CLASS ACTION

This Document Relates To: )

ALL ACTIONS. )

) APPLICATION OF SAMUEL H. RUDMAN  
) ON BEHALF OF NECA-IBEW WELFARE  
) TRUST FUND FOR APPOINTMENT TO  
) LEADERSHIP OF THE END-PAYER  
) PLAINTIFFS' STEERING COMMITTEE  
\_\_\_\_\_)

Pursuant to Pretrial Order No. 1 (Dkt. No. 2), please accept my application for leadership of or membership on the End-Payer Plaintiffs' Steering Committee ("EPPSC").

**Professional Experience:** I am a founding partner of Robbins Geller Rudman & Dowd LLP ("Robbins Geller" or the "Firm") and counsel for plaintiff NECA-IBEW Welfare Trust Fund ("NECA-IBEW") – a self-administered health and benefits fund currently serving 18 "Locals" spanning the country from Illinois to Florida. I graduated from the Brooklyn Law School in 1992 and have practiced law for 23 years. See Samuel H. Rudman Bio (<http://www.rgrdlaw.com/attorneys-Samuel-H-Rudman.html>). My *pro hac vice* application was granted July 28, 2016 by Your Honor.

I have extensive experience representing injured plaintiffs and class members in some of the largest and most successful antitrust, unfair competition and investor class action litigation, including as lead or co-lead counsel in a number of them. I am co-lead counsel in several MDL antitrust class actions, including *In re Aluminum Warehousing Antitrust Litig.*, No. 13-md-2481 (S.D.N.Y.), and I lead the Firm's litigation teams in *In re Domestic Airline Travel Antitrust Litig.*, No. 15-mc-01404 (D.D.C.), and *In re Treasury Sec. Auction Litig.*, No. 15-cv-05794 (S.D.N.Y.), as well as numerous other cases in the Firm's antitrust and securities departments. Additionally, I publish and lecture on numerous business fraud and related issues, and have been named a Litigation Star by *Benchmark Litigation*, a *Lawdragon* 2016 Leading Lawyer in America, a Leading Lawyer by *Chambers USA* for the last two years, and a Super Lawyer by *Super Lawyers Magazine* from 2007-2016.

The Firm and I bring a wealth of pharmaceutical industry experience to this action. Currently, the Firm represents end-user consumers on plaintiffs' executive committees in *In re Aggrenox Antitrust Litig.*, No. 14-md-02516 (D. Conn), and *In re Lidoderm Antitrust Litig.*, No. 14-md-02521 (N.D. Cal.) – both complex MDLs – and, as lead counsel, successfully resolved *Jones v. Pfizer Inc.*, No. 10-cv-03864 (S.D.N.Y.) (\$400 million recovery for pharmaceutical manufacturer's illegal, off-label drug promotion). In this action, we have actively participated with other plaintiffs' counsel in organizing this litigation, and have taken the lead in preparing the way for discovery by

drafting and circulating a proposed protective order, and in working with other co-counsel to centralize the various end-payer plaintiffs' specifics and doxycycline and digoxin acquisitions.

**Ability to Work Cooperatively:** Within the confines of zealous representation, I have worked cooperatively with counsel for plaintiffs and other defendants in numerous MDLs and other complex class actions, and am committed to working cooperatively with all stakeholders here. My ability to work well with other lawyers is evidenced by my and my firm's unparalleled success at involving co-lead counsel and executive committee members in successfully resolving many of the nation's largest and most high-profile class actions. As noted above, while I believe I should serve in a leadership position on the EPPSC, I also seek appointment as a member of the EPPSC, should the Court so determine. I have worked cooperatively with many of the lawyers involved in this litigation and, given this action's magnitude, support appointment of a broad coalition of experienced lawyers to the EPPSC, including the appointment of Greg Asciolla of Labaton Sucharow LLP, Heidi M. Sifton of Lockridge Grindal Nauen P.L.L.P., Michael Buchman of Motley Rice LLC, and Jayne A. Goldstein of Pomerantz LLP as members of the EPPSC.

**Availability and Resources to Commit to This Litigation:** In a case such as this, where the class faces numerous, well-capitalized adversaries who have each retained capable counsel, class members should be represented by counsel with the resources to match the impressive collection of counsel on the defense side. Robbins Geller possesses such resources and is willing and able to commit those resources to this action. The Firm has more than 200 lawyers in 10 offices throughout the country. The Firm's practice centers on representation of plaintiffs in class and MDL litigation; indeed, our *raison d'être* is representing the aggrieved against large, well-funded companies. *See* Robbins Geller Global Antitrust and Unfair Competition Practice Resume (<http://www.rgrdlaw.com/assets/htmldocuments/AntitrustFirmResume.pdf>). The Firm is extremely well-capitalized and possesses the largest and most robust human, technological, investigatory and financial resources in the antitrust field.<sup>1</sup> Likewise indicative of Robbins Geller's diligence in this litigation, a year before

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<sup>1</sup> Among Robbins Geller's 200 plus attorneys, the Firm has a dedicated antitrust practice group. This group, many of whom have devoted substantial time to this action's investigation and prosecution, has significant experience litigating large-scale, multi-party antitrust actions, including other actions involving pharmaceuticals, as addressed above. *Id.*

filing NECA-IBEW's complaint, the Firm retained a noted expert to provide economic analysis and support for NECA-IBEW's complaint. My firm and I are committed to doing the work necessary – at every stage – in order to achieve the best results for our clients and the classes we represent.

**NECA-IBEW Has Extensive Experience Effectively Leading Complex and Class Litigation:** My appointment to the EPPSC will also promote the efficient and effective litigation of the case because the Firm's client, NECA-IBEW, suffered significant losses as a result of defendants' unlawful conduct and is highly motivated to seek redress. Having hundreds of thousands of dollars of net expenditures for digoxin and doxycycline during the relevant period, NECA-IBEW filed the second complaint in this MDL, which includes many details and expert analysis unique to that complaint. The *Manual for Complex Litigation* counsels that an "empowered-plaintiff" approach to appointment of counsel in securities class actions . . . provides a useful analogy for similar class actions brought by sophisticated plaintiffs with large losses or sizable claims." *Manual for Complex Litigation (Fourth)* §21.272, at 281 (2004).

NECA-IBEW possesses significant experience serving as a fiduciary and leading complex class litigation, and is the prototypical "empowered plaintiff." Indeed, the fund's efforts on its own and classes' behalf, including other health and welfare funds and consumers, have been demonstrably effective, having overseen the collective recovery of almost \$400 million in recent years as a class representative in a variety of cases. In addition, as a sophisticated fiduciary, NECA-IBEW is familiar with the requirements of complex litigation, is well-versed in its discovery obligations, and will work closely with counsel to manage costs and efficiently prosecute the action.

Accordingly, I respectfully request appointment to leadership of or membership on the EPPSC.

DATED: September 23, 2016

Respectfully submitted,

ROBBINS GELLER RUDMAN  
& DOWD LLP  
SAMUEL H. RUDMAN

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s/ Samuel H. Rudman  
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Attorneys for Plaintiff NECA-IBEW Welfare  
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CERTIFICATE OF SERVICE

I hereby certify that on September 23, 2016, I authorized the electronic filing of the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the CM/ECF participants registered in this case. I further certify that I caused to be mailed the foregoing document or paper via the United States Postal Service to the non-CM/ECF participants indicated on the electronic filing receipt. Parties may access this filing through the Court's electronic filing system.

I certify under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on September 23, 2016.

s/ Samuel H. Rudman  
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